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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/776,260	02/05/2001	Richard David Brunt	50900	9727

7590 02/04/2005  
Kenneth J. Stachel  
Law Department  
925 Euclid Avenue  
900 Huntington Building  
Cleveland, OH 44115

EXAMINER
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SHAAWAT, MUSSA

ART UNIT	PAPER NUMBER
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2128

DATE MAILED: 02/04/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

09/776,260

Applicant(s)

BRUNT ET AL.

Examiner

Mussa A Shaawat

Art Unit

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 25 October 2004.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 14-30 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 14-30 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date <u>25 October 2004</u> . | 6) <input type="checkbox"/> Other: _____  |

### DETAILED ACTION

1. This application has been examined.
2. Claims 1-13 have been canceled, claims 14-30 have been added and are pending.

### ***Claim Rejections - 35 USC § 102***

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) The invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

4. Claims 14-18, and 20-30 are rejected under 35 U.S.C. 102(e) as being anticipated by Joan A. Schuller et al (US 2001/0047250), herein is referred to as Schuller.
5. As per claim 14, Schuller discloses selecting from a database containing images of structural archetypes stored in electronic format on storage means an archetype image that closely matches the structure to be painted (Abstract; 6<sup>th</sup> paragraph; 7<sup>th</sup> paragraph; 8<sup>th</sup> paragraph; 26<sup>th</sup> paragraph), the definition of the word archetype according to Merriam-Webster dictionary (<http://www.webster.com>) is “the original pattern or model of which all things of the same type are representations”, building, house, any space or interior of a building, room of a house etc. are one of structural archetypes;

Selecting a colour or colours from a database comprising colours stored on in electronic format on storage means wherein the colours are grouped by colour names or in groups where the colors are either complementary or contrasting with one another (paragraph 39 lines 1-3, 10-13 selecting colors; paragraph 70 lines 24-30 storage means; 9<sup>th</sup> paragraph line 1-6 comparing colors with one another; 28<sup>th</sup> paragraph; figure 6C, item 618);

Applying the colour or colours to the image to produce a colour scheme and (9<sup>th</sup> paragraph; 28<sup>th</sup> paragraph; 39<sup>th</sup> paragraph; figure 6A, item 618);

Displaying the structure or part of a structure with the colour applied and providing information from which paint corresponding to the colour or colours in the colour scheme can be identified (28<sup>th</sup> paragraph; 39<sup>th</sup> paragraph; figure 6A, item 618).

6. As per claim 15, Schuller discloses structural archetypes are images of a building (26<sup>th</sup> paragraph).

7. As per claim 16, Schuller discloses the image is of the interior of a building (Abstract; 3<sup>rd</sup> paragraph; 6<sup>th</sup> paragraph; 8<sup>th</sup> paragraph; 21<sup>st</sup> paragraph).

8. As per claim 17, Schuller discloses the building is a house (3<sup>rd</sup> paragraph; 21<sup>st</sup> paragraph)

9. As per claim 18, Schuller separate areas of the archetypes can be coloured separately one from another (12<sup>th</sup> paragraph; 30<sup>th</sup> paragraph).

10. As per claim 20, Schuller discloses the archetype is an interior of a building and also contains furniture and furnishings (Abstract; 6<sup>th</sup> paragraph; 23<sup>rd</sup> paragraph; 26<sup>th</sup> paragraph; figure 6C)

11. As per claim 21, Schuller discloses colour can be applied separately to furniture and furnishings (23<sup>rd</sup> paragraph; 30<sup>th</sup> paragraph; 38<sup>th</sup> paragraph; 39<sup>th</sup> paragraph).
12. As per claim 22, Schuller discloses images are photographic quality (figure 6C).
13. As per claim 23, Schuller discloses remote access to the database (8<sup>th</sup> paragraph; 10<sup>th</sup> paragraph; 11<sup>th</sup> paragraph; 12<sup>th</sup> paragraph; 22<sup>nd</sup> paragraph; figure 1, items 11-113).
14. As per claim 24, Schuller discloses access via the Internet (3<sup>rd</sup> paragraph; 51<sup>st</sup> paragraph; figure 1, item 150)
15. As per claim 25, Schuller the user can enter from his point of access, the image to be coloured in electronic form (12<sup>th</sup> paragraph; 20<sup>th</sup> paragraph; 23<sup>rd</sup> paragraph; 34<sup>th</sup> paragraph; figures 6A-6C).
16. As per claims 26, Schuller teaches printing the colour recommendation for a structure or part of a structure as a photographic quality print (paragraph 39-paragraph 40 line 3).
17. As per claim 27, Schuller teaches according to claim 26 wherein the message includes a source from which the paint can be purchased (paragraph 21 lines 5-11, paragraph 22, paragraph 42, paragraph 48, and paragraph 72).
18. As per claim 28, Schuller teaches printing the colour and specifying the colour or colours by an indicator (Fig. 6A block 618, shows a panel which includes a group of colours that a user selects or chooses from to specify the colour of a structure or part of a structure).

19. As per claim 29, Schuller teaches a source from which the paint can be purchased (paragraph 21 lines 5-11, paragraph 22, paragraph 42, paragraph 48, and paragraph 72).

20. As per claim 30, Schuller teaches storage means selected from a floppy discs or compact discs (paragraph 70 lines 24-30, et-seq).

### ***Claim Rejections - 35 USC § 103***

21. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claim 19 is rejected under 35 U.S.C. 103(a) as being unpatentable over Joan A.

Schuller et al (US 2001/0047250), herein is referred to as Schuller.

22. As per claim 19, Schuller discloses walls, doors, moldings, windows, fireplace, and ceiling (Abstract; 6<sup>th</sup> paragraph; 35<sup>th</sup> paragraph; 62<sup>nd</sup> paragraph; 72<sup>nd</sup> paragraph). Schuller fails to disclose coving, and dado rails. It would have been obvious to one of ordinary skill in the art at the time of the invention was made to use images of other structural objects for client selection for simulation. The sills and window frames are inherent in windows and the skirting boards are interpreted as moldings.

### ***Response to Arguments***

1. Applicant's arguments filed have been fully considered but they are not persuasive.

In the remarks, the applicant argues in substance that; A) Schuller does not teach selecting colour or colours form a database, where the colours are grouped by colour indicators; for instance, names or in groups where the colours are either complementary or contrasting one with another.

In response to A) Schuller discloses a GUI buttons and a color picker that allow the user to change the decorative material applied to a structural object i.e. GUI allows the user to select a color to decorate a structure or part of a structure depending on the user preference from a group of many colors available for the user to choose from (paragraph 39 lines 1-3). Also Schuller teaches when a structural object is selected, a query may be sent to the web server or directly to the database to retrieve a listing of available colors and/or patterns for a particular object (paragraph 39 lines 10-13). In addition Schuller teaches matching decorative may be determined by comparing colors, patterns, i.e. contrasting a group of colors with one another (paragraph 9 line 6). Therefore, Schuller meets the scope of the claimed invention "selecting colour or colours form a database, where the colours are grouped by colour indicators; for instance, names or in groups where the colours are either complementary or contrasting one with another".

**THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not

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mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

### ***Conclusion***

23. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Brown (US 6,524,107), Apparatus and method for displaying room wall and floor covering arrangements for selection by a purchaser.

### ***Communication***

9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Mussa A Shaawat whose telephone number is (571) 272-3785. The examiner can normally be reached on Monday-Friday (8:30am to 5:00pm).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jean R Homere can be reached on (571) 272-3780. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

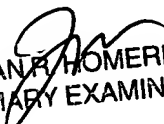
Information regarding the status of an application may be obtained from the



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Mussa Shaawat  
Patent Examiner  
January 28, 2005

  
JEAN R. HOMERE  
PRIMARY EXAMINER